THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 19101 of 2005

-

Dated:12.09.2005

Between:

Satti Venkata Krishna Reddy, S/o Venkata Reddy,
R/o H. No. 275/A/D, Road No. 12 Banjara Hills, Hyderabad,

and another.

..... PETITIONERS

AND

Deputy Collector and Mandal Revenue Officer,

Serilingampally mandal, Ranga Reddy District, and others.

.....RESPONDENTS

ORDER:

The fact of the matter to a large extent is admitted. The land admeasuring Acs.460.07 guntas in Survey No.36 of Gopanpally Village is Chinna Kancha Sarkari land. In 1961 an extent of Acs.5.00 in the said survey number was assigned to Akbar Khan and others under Laoni Rules and the name of the assignees were entered in the revenue records i.e., Pahani during the year 1962-63. It appears Akbar Khan's legal heirs sold the land to Md.Osman, who in turn sold the land to Salman Agencies in 1984. One Sem Saleem Peer Bhoy purchased the property under registered sale deed in 1986 from Salman Agencies. The petitioners herein purchased the said property under two registered sale deeds in April 1997. The petitioners also claim that their names were duly mutated in the revenue records and they are in possession of the property to the extent of Acs.5.00 purchased from Sem Saleem Peer Bhoy and about Acs.2.00 purchased from Md.Osman.

The first respondent i.e., Mandal Revenue Officer, during the inspection of the lands in Survey No.36 sometime in December 2003, noticed that the assigned land in Survey No.36 was alienated in contravention of the provisions of Section 3 of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). Therefore, initiating action under Section 3(2) of the Act, the first respondent issued notice in Form No.1, dated 15.12.2003, to the petitioners' vendor/vendors who appear to have not sent any explanation. The first respondent passed orders on 08.01.2004 directing resumption of the lands for contravention of the provisions of Section 3(2) of the Act.

The petitioners who purchased the property from Sem Saleem Peer Bhoy challenged the orders of resumption passed by the first respondent after the lapse of about eighteen months. According to the petitioners they were not given any notice by the first respondent before passing orders under Section 4(1) of the Act, that the land assigned to Akbar Khan and Osman was not subject to the condition of inalienability by a reason of the relevant Laoni Rules, and therefore, the order is unsustainable. They also allege that after purchasing the property from Sem Saleem Peer Bhoy their names are duly mutated in the revenue records, and therefore, nonissuance of notice vitiates the impugned order.

At the stage of admission itself the first respondent has filed a detailed counter affidavit. It is stated that as per the revenue records the sales transactions under which the petitioners purchased the property from the assignees is not within the knowledge of the Revenue Department, that the documents relied on by the petitioners in proof of mutation were not issued by the office of the first respondent, that even under Laoni Rules when the assignee transfers the land, the same is liable to be resumed as per Rule 19 of the Laoni Rules. It is also submitted that the District Collector has passed proceedings alienating the entire extent of Acs.397.16 guntas in Survey Nos.36 and 37 of Gopanpally Village to the Hyderabad Central University in lieu of Acs.400.00 of land taken from the University for Sports Authority of Andhra Pradesh. It is further stated that in obedience of the proceedings of the

District Collector, dated 31.01.2004, necessary orders were passed by the first respondent directing the Additional Revenue Inspector to take possession and accordingly, under panchanama dated 03.02.2004, the land in survey Nos.36 and 37 was taken possession and handed over to the Registrar of the University of Hyderabad.

The petitioners have filed a reply affidavit denying the counter averments, especially the averments that the possession was taken and handed over to the University of Hyderabad. The Mandal Revenue Officer proceeded under the provisions of the Act on the premise that originally the land was assigned to Akbar Khan and others under Laoni Rules with condition of alienability. This is seriously disputed by the learned counsel for the petitioners. In the reply affidavit it is also stated that they have also constructed a compound wall. The State also is denying the necessary mutation in favour of the petitioners as a justification for nonissuance of notice to them before passing orders by the Mandal Revenue Officer under Section 4(1) of the Act. These two issues would go to the root of the matter and any decision of these two issues depends on the factual foundation. The petitioners have not placed before this Court any Laoni patta, which was originally issued to Akbar Khan and others without any condition of inalienability. Further, an order passed under Section 4(1) of the Act is appealable under Section 4-A of the Act before the Revenue Divisional Officer and the Special Deputy Collector. The various issues raised in the writ petition can as well be resolved by the Revenue Divisional Officer initially.

As there is a dispute between the parties regarding possession, it would be in the interest of both the parties to direct status quo as to the possession as on today.

Accordingly, giving liberty to the petitioners to file an appeal before the jurisdictional Special Grade Deputy Collector and the Revenue Divisional Officer within a period of one week from the date of receipt of a copy of this order under Section 4-A of the Act, the writ petition is disposed of, subject to the observations and directions as hereinabove. The appellate authority shall dispose of the matter within a period of eight weeks, after giving notice to the petitioners and affording an opportunity of hearing in the matter. No costs.

_____

(V.V.S.RAO, J)

12.09.2005

vs